

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA

v.

Criminal No. 00-33-P-C

DANIEL COOK,

Defendant

GENE CARTER, District Judge

MEMORANDUM OF DECISION AND ORDER

Presently before the Court is Defendant Daniel Cook's Motion to Suppress Fruits from Warranted Search ("the Motion") (Docket No. 4). Defendant has been indicted with knowingly possessing child pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B) and (2). Indictment (Docket No. 1). By the Motion, Defendant contends that the warrant to search his apartment was improperly issued because the affidavit, upon which the warrant was predicated, was inadequate as a matter of law.

The affidavit in question was made by Officer Michael L. Webber of the Lewiston Police Department. Affidavit of Officer Michael L. Webber ("the affidavit"), attached as part of Exhibit A to Government's Objection to Defendant Cook's Motion to Suppress Fruits from Warranted Search (Docket No. 9). Officer Webber sets forth in the affidavit the complaints of two individuals, one of whom saw child pornography while at Defendant's apartment, and another who was offered the chance to view child pornography in Defendant's apartment. Officer Webber had reviewed the complaints, and then had conducted additional interviews of each of the two

complaining parties, prior to seeking the search warrant. The affidavit sets forth in detail the basis for, and nature of, each complaint.

In his Motion, Defendant contends that because the complaints did not link the child pornography to him, the complaints fail to establish sufficient probable cause for a search warrant. As the Government properly points out, probable cause for a search warrant, unlike an arrest warrant, does not require that the targeted contraband be linked to the owner or tenant of a residence. Instead, a judge must merely be satisfied that there is probable cause to believe that the place to be searched contains evidence of a crime. That, according to Defendant, the complaints fail to link directly the child pornography with Defendant is of no moment. The Court is satisfied that a judge could find probable cause to issue a search warrant based on the contents of the affidavit.¹

Accordingly, Defendant's Motion is **DENIED**.

GENE CARTER
District Judge

Dated at Portland, Maine this 13th day of June, 2000.

DANIEL COOK (1)
defendant

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¹ Defendant's reliance on *U.S. v. Webber*, 923 F.2d 1338 (9th Cir. 1990) is equally unavailing. In *Webber* the Court of Appeals for the Ninth Circuit reversed the denial of a motion to suppress because the search warrant affidavit relied heavily – indeed almost exclusively – on the generalized “proclivities” of pedophiles. Defendant contends that because this affidavit also contained such generalities, his Motion should similarly be granted. Defendant ignores, however, the fact that here, unlike in *Webber*, the affidavit includes two particularized complaints indicating the presence of child pornography in Defendant's apartment.

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